

EXHIBIT C

Redacted Pursuant to Court Order

1 IN THE UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF NEW YORK

3
4 SPENCER MEYER, individually
5 and on behalf of those
6 similarly situated,

7 Plaintiffs,

8 vs.

No. 1:15 Civ. 9796 (JSR)

9 TRAVIS KALANICK,

10 Defendant.

11 /

12 CONFIDENTIAL PURSUANT TO THE PROTECTIVE ORDER

13 DEPOSITION OF MATHEW G. HENLEY

14 SAN FRANCISCO, CALIFORNIA

15 WEDNESDAY, JUNE 22, 2016

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22 BY: ANDREA M. IGNACIO, CSR, RPR, CRR, CCRR, CLR

23 CSR LICENSE NO. 9830

24 JOB NO. 504144

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No. 1:15 Civ. 9796 (JSR)

9 TRAVIS KALANICK,

10 Defendant.

11 _____/

12
13 Deposition of Mathew G. Henley, taken on
14 behalf of the Plaintiff, at Gibson, Dunn &
15 Crutcher, LLP, 555 Mission Street, 30th Floor,
16 San Francisco, California, Pursuant to Notice,
17 before me, ANDREA M. IGNACIO, CSR, RPR, CRR, CCRR,
18 CLR ~ CSR License No. 9830.
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1 A P P E A R A N C E S:

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3
4 ON BEHALF OF THE PLAINTIFF:

5 MCKOOL SMITH, P.C.

6 By: JOHN C. BRIODY, Esq.

7 One Bryant Park, 47th Floor

8 New York, New York 10036

9 Phone: 212.402.9400

10 jbriody@mckoolsmith.com

11
12 ON BEHALF OF UBER TECHNOLOGIES:

13 GIBSON DUNN & CRUTCHER, LLP

14 By: NICOLA T. HANNA, Esq.

15 LAURA J. PLACK, Esq.

16 3161 Michelson Drive

17 Irvine, California 92612-4412

18 Phone: 949.451.3800

19 nhanna@gibsondunn.com

20
21 ALSO PRESENT: Martin White, Uber

22 Angela Padilla, Uber

23
24 ---oOo---

1 SAN FRANCISCO, CALIFORNIA

2 WEDNESDAY, JUNE 22, 2016

3 9:11 A.M.

4
5
6 MAT HENLEY,

7 having been sworn as a witness

8 by the Certified Shorthand Reporter,

9 testified as follows:

10
11 MR. HANNA: Before we start -- this is Nic
12 Hanna for Uber Technologies. I wanted to state a
13 couple of things for the record.

14 First of all, with respect to the Ergo
15 matter, Uber Technologies has asserted certain
16 privileges and positions in this matter, including
17 with respect to various documents that were submitted
18 in camera to the Court.

19 The Court has ordered some of the documents
20 produced to Mr. Meyer and his counsel, which has been
21 accomplished, and we expect that the deposition today
22 will focus on those documents and related subject
23 areas.

24 I want to state at the outset that the --
25 that by proceeding with this court-ordered deposition,

1 Uber Technologies does not intend to waive or
2 relinquish any of the privileges or positions that
3 have been asserted in the past, and hereby preserves
4 those privileges and positions to the fullest extent
5 the law allows.

6 Second, because we believe that this
7 deposition will encompass matters that relate to the
8 attorney-client privilege and the attorney work
9 product doctrine, we intend to designate the entirety
10 of this deposition transcript as "Confidential Under
11 the Protective Order" that's been issued in this case.

12 MR. BRIODY: Okay. John Briody, McKool
13 Smith, on behalf of plaintiff. I understand counsel
14 has made his reservation of rights. We obviously have
15 a disagreement concerning these issues, but we are
16 proceeding.

17 And we understand that they are making the
18 designation that this transcript be Confidential.

19 We also want to note that counsel for the
20 defendant, Travis Kalanick, was provided notice of
21 this deposition, and I understand that they have
22 elected not to attend, and we're going forward.

23 ///

24 ///

25 ///

EXAMINATION

BY MR. BRIODY:

Q Good morning, Mr. Henley.

A Good morning.

Q Can you please state your name for the record.

A Mat Henley.

Q Do you have a middle name?

A Gene.

Q Okay. And can you state your home address, please.

A Redacted

Q And who is your employer, Mr. Henley?

A Uber.

Q And what is the title of your position at Uber?

A Director of security.

Q And tell me a little bit about what the director of security does.

A I focus on threats against the company, our driver partners, our riders, our employees, our facilities.

Q Can you give me a brief overview of what kinds of threats you're talking about.

1 question.

2 THE WITNESS: I had no context, other than
3 who is the plaintiff, was the question.

4 MR. BRIODY: Q. What was the last part?
5 Other than what?

6 A Who is the plaintiff. That was the...

7 Q So, could you tell me what your understanding
8 is for the reason for the investigation of the
9 plaintiff?

10 A I had no --

11 MR. HANNA: Objection to the form of the
12 question.

13 And clarification: Do you mean his -- his
14 understanding of what he did, or what others'
15 motivation --

16 MR. BRIODY: His -- his understanding --
17 well, let me take a step back.

18 Q Mr. Henley, you were responsible for
19 retaining Ergo in connection with this investigation?

20 A Correct.

21 Q And why did you understand you were retaining
22 Ergo?

23 A Because Salle and Joe asked us to just --
24 there was a -- this is an unknown plaintiff, and they
25 wanted diligence on who this person was.

1 Q Why did they want to have diligence done?

2 MR. HANNA: Objection to the form of the
3 question; calls for speculation.

4 THE WITNESS: I have no idea.

5 MR. BRIODY: Q. Did they -- did -- now,
6 Salle is who?

7 A Our general counsel.

8 Q And that's Salle Yoo?

9 A Yes.

10 Q And Joe refers to who?

11 A Joe Sullivan.

12 Q Do you have -- did Ms. Yoo or Mr. Sullivan
13 communicate to you why they wanted to have diligence
14 done?

15 A No.

16 Q Okay. Did you ever communicate directly with
17 Ms. Yoo in connection with the retention of Ergo?

18 A No.

19 Q What about Mr. Sullivan?

20 A Just the -- with the retention of Ergo or --

21 Q Correct.

22 A I don't think I quite understand it.

23 As in deciding whether or not to --

24 Q Let me -- let me clarify.

25 When did you retain Ergo?

1 A When did we first talk with them, or when did
2 we -- in this case?

3 Q I'd like to focus on the -- let me take a
4 step back.

5 So, you understand that Ergo undertook an
6 investigation of Mr. Meyer?

7 A Correct.

8 Q When did Uber retain Ergo to conduct an
9 investigation?

10 A To do that specific one?

11 Q Yes.

12 A I don't know the exact date.

13 Q Was it in December?

14 A I believe so, yes. I think late December.

15 Q And -- and did anyone at Uber tell you to
16 retain Ergo?

17 MR. HANNA: Objection to the form of the
18 question.

19 THE WITNESS: I'm getting held up on the
20 "retain" word.

21 MR. BRIODY: Q. So my understanding is --
22 well, let me take a step back.

23 Ms. Yoo and Mr. Sullivan advised you that
24 they wanted you to undertake an investigation of
25 Mr. Meyer; correct?

1 MR. HANNA: Objection to the form of the
2 question; mischaracterizes testimony.

3 THE WITNESS: They asked for diligence on
4 him. That is correct.

5 MR. BRIODY: Q. And did they tell you any
6 particular way to conduct that diligence?

7 A No.

8 Q Who decided to retain Ergo?

9 A Me.

10 Q Did you retain any other investigation firm,
11 any kind of consultant, vendor, or any other party to
12 conduct diligence of Mr. Meyer?

13 A No.

14 Q What about Mr. Schmidt?

15 A No.

16 Q What about any counsel in this litigation on
17 behalf of the plaintiff?

18 A No.

19 Q When did Ergo's investigation of Mr. Meyer
20 conclude?

21 A I'm not sure the exact date.

22 Q Was it in February?

23 A It would have been whenever the date that
24 they sent me the report.

25 Q Who spoke with Ergo in connection with its

1 Q Okay. Now, let's talk about the retention of
2 Ergo with respect to the Meyer project.

3 Who was involved in that?

4 A Me.

5 Q Just you?

6 A For the retention piece, just me.

7 Q Now -- now, there -- we can -- I'd like to
8 stop now and talk about the Ergo investigation itself.

9 Who managed, from Uber's standpoint, the Ergo
10 investigation itself?

11 A What do you mean by managed?

12 Q Did anyone perform oversight, after Ergo was
13 retained for the Meyer project, over what Ergo was
14 doing on the Meyer project?

15 MR. HANNA: Objection to the form of the
16 question.

17 THE WITNESS: There -- yeah, there's no
18 management from our part.

19 MR. BRIODY: Q. So there was pre-retention,
20 retention, then Ergo was conducting the investigation?

21 A Yep.

22 Q And Uber is not participating in that
23 investigation or overseeing it --

24 A No.

25 Q -- is that fair?

1 A Fair, yes.

2 Q Now, when -- a report is tendered by Ergo to
3 you; right?

4 A Yep.

5 Q And we can -- we'll go through some documents
6 later on, but I just want to get the broad picture
7 here.

8 That happens, I can tell you, around
9 January 19th.

10 A Uh-huh.

11 Q When is Uber's next involvement with respect
12 to Ergo?

13 MR. HANNA: Objection to the form of the
14 question.

15 THE WITNESS: What do you mean by
16 involvement?

17 MR. BRIODY: Next contact, next reach-out to
18 Ergo.

19 THE WITNESS: I don't know.

20 MR. BRIODY: Q. What was -- when was your
21 next reach-out to Ergo after you got the report?

22 A Really, at that point, Craig had been fully
23 on-boarded and was managing it. And I don't remember
24 if I talked to them after the report piece.

25 Q And "Craig" refers to Craig Clark?

1 A Uh-huh.

2 Q My first question is: Do you have documents
3 that were created in connection with the -- I'm going
4 to withdraw that question.

5 Are there documents that you created or were
6 sent to you in connection with Ergo's investigation of
7 Mr. Meyer that were destroyed?

8 A No.

9 Q Now, did you communicate with Ergo via Wickr?

10 A No.

11 Q Okay.

12 MR. HANNA: You've got to slow down and give
13 me a chance to hear the question.

14 THE WITNESS: Sorry.

15 MR. BRIODY: Q. Do you know what Wickr is?

16 A Yes.

17 Q And how do you spell Wickr?

18 A W-I-C-K-R.

19 Q And what is Wickr?

20 A A chat program.

21 Q Okay. And is one of the features of Wickr
22 that the messages that you send automatically delete
23 themselves?

24 MR. HANNA: Objection to the form of the
25 question.

1 And Mr. Egeland testified that you did indeed
2 use Wickr in communicating with him.

3 And so, are you telling me that Mr. Egeland
4 is wrong, that you never did communicate with him via
5 Wickr?

6 MR. HANNA: Objection to the form of the
7 question.

8 THE WITNESS: I have no -- besides us
9 switching or exchanging user names, I don't believe we
10 ever actually communicated over Wickr.

11 MR. BRIODY: Q. Now, it's your understanding
12 that, if you did indeed communicate via Wickr, we
13 wouldn't be able to get those communications today?

14 MR. HANNA: Objection to the form of the
15 question.

16 THE WITNESS: Correct.

17 MR. BRIODY: Q. Now, is -- do you -- do you
18 communicate using Wickr as part of -- in your role at
19 Uber -- as a part of your work at Uber?

20 MR. HANNA: Objection to the form of the
21 question.

22 THE WITNESS: Yes, we use it.

23 MR. BRIODY: Q. Have you used Wickr to
24 communicate in connection with the Meyer -- with other
25 folks at Uber in connection with the Meyer litigation?

1 Q Now, were you aware of the manner in which
2 Ergo is going to reach out and contact the seven
3 primary sources in order to obtain interviews and
4 information?

5 MR. HANNA: Objection to the form of the
6 question.

7 MR. BRIODY: And let me be clear about this.

8 Q Prior -- let's pick a date. Jan- -- prior to
9 January 19th, prior to receiving Ergo's report, were
10 you aware of the manner in which Ergo was going to
11 reach out to the seven primary sources?

12 A I still don't know how they reached out.

13 Q Oh, so -- so the answer to that question is
14 "no"?

15 A No.

16 Q And after you received the report, did you
17 ever learn how Ergo was reaching out to the seven
18 primary sources?

19 A No.

20 MR. HANNA: Slow down.

21 MR. BRIODY: Q. Is that something that you
22 were ever concerned about, how Ergo might be reaching
23 out to the seven primary sources --

24 MR. HANNA: Objection --

25 MR. BRIODY: Q. -- in the period between the

1 telling people about?

2 A It depends on the people.

3 Q Do you go tell strangers about a sensitive
4 matter?

5 MR. HANNA: Objection to the form of the
6 question.

7 THE WITNESS: I don't know what that means.

8 MR. BRIODY: Q. You said it depends on the
9 people; right?

10 I asked you: Is a sensitive matter something
11 you go telling people about?

12 It depends on the people.

13 I'm giving you a category of people:
14 Strangers.

15 Would you go telling strangers about a
16 sensitive matter?

17 MR. HANNA: Objection to the form of the
18 question.

19 THE WITNESS: It would depend on the matter.

20 MR. BRIODY: Q. What about this matter?

21 What about the investigation --

22 A What aspect of this investigation?

23 Q The fact that it was being undertaken.

24 A Would I -- okay. So that's better.

25 You're asking, would the elements of the fact

1 that Uber is involved, be told to a stranger?

2 Q Correct.

3 A That would be fine.

4 Q That would be fine?

5 A Yes.

6 Q What about the target -- what about the
7 sources?

8 MR. HANNA: Objection; calls for speculation.

9 MR. BRIODY: Q. What about the sources in
10 connection, who were going to give information with
11 respect to the investigation, who Ergo was going to go
12 to and ask for information?

13 Is it okay --

14 A Are you referring --

15 Q -- to tell them?

16 A -- to the -- sorry.

17 MR. HANNA: Objection to the form of the
18 question; calls for speculation; hypothetical.

19 THE WITNESS: Are you referring to the
20 seven primary source interviews?

21 MR. BRIODY: Yes.

22 THE WITNESS: And now --

23 MR. HANNA: Same objections.

24 THE WITNESS: And state the question again.

25 MR. BRIODY: Q. I'm asking you if it was

1 MR. BRIODY: I'm -- it's my expla- -- no,
2 it's my explanation. He's asking me -- and look, I'm
3 giving you a lot of liberty here, Mr. Hanna. But
4 I'm -- I'm trying to get an answer to a specific
5 question. I'm asking the witness.

6 Q When you characterized something as under the
7 radar, did you expect to have Ergo -- was it okay for
8 Ergo -- did you support Ergo going and telling the
9 people that it was reaching out to, in connection with
10 this investigation, who it was being conducted for and
11 what it was about?

12 MR. HANNA: Objection to the form of the
13 question.

14 THE WITNESS: Not knowing who the seven
15 primary sources are, I -- I don't know what was
16 appropriate or not appropriate.

17 MR. BRIODY: Q. So, it would have been fine,
18 from Uber's perspective, for Ergo's investigator to
19 reach out to anybody in connection with this
20 investigation -- and we'll put the plaintiff and his
21 counsel specifically to the side -- and tell them,
22 "I'm trying to find out more about the plaintiff," or,
23 "I'm trying to find out more about plaintiff's
24 counsel. I'm doing it for Uber in connection with a
25 lawsuit. What can you tell me?"

1 That would be okay from Uber's perspective?

2 MR. HANNA: Objection to the form of the
3 question.

4 THE WITNESS: Yes.

5 MR. BRIODY: Q. Did you want to know or were
6 you interested in knowing the means by which Ergo goes
7 out and gets its information?

8 MR. HANNA: Objection to the form of the
9 question.

10 THE WITNESS: Can you restate? You asked
11 kind of two questions there.

12 MR. BRIODY: Sure. Sure.

13 Q Did you want to know how Ergo was going about
14 getting its information in connection with the Meyer
15 investigation?

16 A Did I want to know?

17 Q (Counsel nods head.)

18 A It's -- no. I think, you know, the fact
19 that, you know, they are the company that they are,
20 and they are -- work through our MSA process with our
21 legal team under how they operate, you know, as long
22 as it's, again, legal and professional, I'm good with
23 it.

24 Q Did you have any chance to look up Ergo's
25 website ever?

1 Q But you did participate -- you attended the
2 meeting?

3 A Correct.

4 Q And tell me everything that you remember Ergo
5 stating to you and Mr. Clark at the meeting.

6 A I don't remember much. I mean, it was not
7 a -- it was not a long meeting. It was really an
8 apology regarding the rogue investigator. And I --
9 yeah, I -- that's all. It wasn't something that
10 was -- that I was heavily involved with at the time.
11 So it was kind of more to meet Todd face-to-face, but
12 it was more of a Craig meeting.

13 Q What did Mr. Clark say to the Ergo folks at
14 the meeting?

15 A I don't remember what Mr. Clark said.

16 Q If you could paraphrase the subject matter,
17 tell me all that you know about what was communicated
18 by Mr. Clark to Ergo.

19 A Beyond the general subject matter of what
20 they were discussing and, you know, having multiple
21 executives talking to Craig and apologizing, I don't
22 know the details that were discussed. I don't
23 remember if there was much more beyond the apology.

24 Q And you say "beyond the general subject
25 matter of what they were discussing."

1 What -- what do you mean by that?

2 A The fact that they were apologizing for the
3 rogue investigator.

4 Q Was Mr. Clark upset at the meeting?

5 A Was he upset at the meeting?

6 Q Yeah. Did you -- when you were at the
7 meeting and you perceived him, did he seem upset with
8 Ergo?

9 A I don't remember if I perceived a mood.

10 Q Did -- did you or Mr. Clark tell Mister --
11 and let me be clear on something.

12 In terms of from Uber, the only individuals
13 who were there were you and Mr. Clark; is that right?

14 A Yes, I believe that's correct.

15 Q And no one participated via telephone or
16 video con?

17 A The Ergo person?

18 Q Right.

19 A No.

20 Q But beyond that, no one from Uber; right?

21 A I don't believe so.

22 Q Okay. Did you -- did you or Mr. Clark
23 communicate to Ergo that you were displeased because
24 the Ergo investigators used pretext and false
25 statements in connection with the investigation of

1 Mr. Meyer and Mr. Schmidt?

2 A I don't remember what Craig said for sure.

3 And I don't remember necessarily being very active in
4 this -- in this meeting; right.

5 Q I know.

6 But did you hear anybody say, Hey, this was a
7 bad thing. You guys shouldn't have done this?

8 A No.

9 Q Something like that?

10 A I'm not remembering specifics of what was
11 said when.

12 Q Did -- did anyone tell -- was the sub- --
13 withdrawn.

14 Was the subject matter of Ergo's apology
15 relating to the fact that Uber's identity was
16 discovered in connection with this investigation?

17 MR. HANNA: Objection to the form of the
18 question.

19 THE WITNESS: The -- sorry.

20 MR. HANNA: You can answer.

21 THE WITNESS: The apology was -- or the
22 subject of the apology was the fact that they had a
23 rogue investigator.

24 MR. BRIODY: Q. And that -- was it just that
25 they had -- they told you they had a rogue

1 investigator, and that was the end of the meeting, or
2 was there some discussion about what they believed, at
3 least -- I'm going -- I'm going from what you heard --
4 from their perspective, that what the rogue
5 investigator did was wrong, and why they should be
6 apologizing to Ergo -- I mean, to Uber?

7 A No. I -- whatever details were discussed
8 between Ergo and Uber up until that meeting would have
9 been when those details were discussed.

10 Q Okay. And so no one said any -- from Ergo
11 said anything like, Look, we're sorry. This
12 investigator was a rogue investigator. You know, your
13 confidentiality was breached, and people -- the
14 plaintiffs in the lawsuit were able to figure out that
15 you were behind the investigation.

16 No one said anything like that?

17 A To the best of my --

18 MR. HANNA: Objection to the form of the
19 question.

20 THE WITNESS: To the best of my knowledge,
21 no.

22 MR. BRIODY: Q. And I take it no one from --
23 neither you nor Mr. Clark said to anyone at Ergo, Hey,
24 you shouldn't be using pretext or false
25 representations to individuals to get information

1 about a party in litigation with Uber's CEO.

2 No one said anything like that?

3 MR. HANNA: Objection to the form of the
4 question.

5 THE WITNESS: You've asked this a few times.
6 The answer is no.

7 MR. BRIODY: Q. And no one from Ergo
8 explained to you or Mr. Clark, during this meeting,
9 that the apology was because Ergo was found out, and
10 the investigation was traced back to Uber?

11 MR. HANNA: Objection; asked and answered
12 several times.

13 THE WITNESS: Yeah, restate it. It's ramblly
14 [sic]. I don't -- I couldn't follow again. So --

15 MR. BRIODY: Q. I'm just trying to figure
16 out -- I'm asking -- well, I'm trying -- you're saying
17 you don't remember very much, or I'm not getting much.
18 I'm trying to jog your memory. I'm trying to ask
19 specific questions about what was --

20 A Can you make --

21 Q -- referenced.

22 A -- it more specific, is what I'm asking.

23 Q I sure can. I'm trying to be specific.

24 And I'm trying to ask if the apology that was
25 delivered by Ergo was an apology based on the fact

1 that the rogue employee's conduct led to the
2 investigation being traced back to Uber?

3 MR. HANNA: Objection to the form of the
4 question; asked and answered.

5 THE WITNESS: The subject of the meeting was
6 an apology based on a rogue investigator.

7 MR. BRIODY: Q. And no one said why the
8 investigator was rogue?

9 MR. HANNA: Same objection.

10 THE WITNESS: And not to my recollection.

11 MR. BRIODY: Q. And it wasn't -- as the
12 person who retained Ergo to conduct this
13 investigation, it wasn't important to you to find out
14 what that -- exactly that rogue employee did that was
15 outside of what normally should have been done at
16 Ergo; is that right?

17 MR. HANNA: Objection to the form of the
18 question.

19 THE WITNESS: It was not important. It had
20 been handed over to Craig Clark --

21 MR. BRIODY: Okay.

22 THE WITNESS: -- who was running it.

23 MR. BRIODY: Q. So you -- so after 19,
24 you're putting that over -- Mr. Clark is the one who's
25 going to --